



Attachment B - Waiver Requests

Minnesota is requesting waivers for Title I-B and Rehabilitation Services (RS) vocational rehabilitation (VR) programs as part of *Minnesota's Unified Plan* for the following:

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REQUEST 1: Allow local workforce investment boards (LWIBs) to hold up to ten percent of local funds for the purpose of implementing an innovative incumbent worker training program.

Summary

The Department of Employment and Economic Development (DEED) is requesting a waiver of the restrictions on the use of local area Workforce Investment Act (WIA) funds to support incumbent worker training at the local level. The requested waiver will allow LWIBs, at their discretion and with the approval of the State, to spend up to ten percent of the funds allocated to the local area under WIA Section 133(b), "Within State Allocations," to carry out incumbent worker training programs. DEED strongly feels that the approval and use of this waiver will help to prevent company layoffs and closures by assisting business entities in becoming more competitive through the delivery of needed worker training. It should be noted that both the states of Alabama and Texas have already received waivers allowing the use of local area WIA funds to support incumbent worker training at the local level. This waiver request adheres to the required format identified in WIA Section 189(i)(4)(B) and WIA regulations (20 CFR 661.420(c)).

Statutory Requirements to be Waived

WIA requires its participants to obtain employment and training assistance through a progression of services from core through intensive and then through training, if appropriate. For example, WIA states, and DEED echoes, that intensive services be provided to workers "who are unemployed and are unable to obtain employment through core services...", and "have been determined by a one-stop operator to be in need of more intensive services in order to obtain employment" or to "...retain employment that allows for self-sufficiency." (WIA Section 134 (d)(3)(A)).

For training, WIA requires that an individual has "met eligibility requirements for intensive services..."

and "be unable to obtain or retain employment through such services" (WIA Section 134(d)(4)(A)(i)). These requirements effectively block the use of local funds for incumbent worker training. Therefore, DEED is requesting that the effective prohibition of using local funds for incumbent worker training (as indicated in the appropriate sections of WIA Section 134) be waived.

State or Local Statutory Barriers

There are no existing State or local statutory or regulatory barriers to the implementation of this waiver request.

Goals of the Waiver and Expected Programmatic Outcomes

This waiver will increase the role of LWIBs and employers in workforce investment activities. It will also increase local flexibility for the local community. These principles will be in keeping with the goals of WIA, including to:

- Empower individuals to obtain needed services and information to enhance their employment opportunities
- Establish a stronger role for LWIBs and the private sector
- Provide increased State and local flexibility to implement innovative and comprehensive workforce investment systems

Under this waiver request, the allocation of funds to local areas will still follow the provisions described in WIA Section 133. The State will still reserve not more than 15 percent of funds allotted to it under this section for Statewide activities, leaving the remainder of the funds to be allocated by the appropriate formula to each of the 16 local workforce service areas (WSAs).

An LWIB will analyze its area's economic conditions and employer demands to determine a need for incumbent worker training. If need is determined, the LWIB will submit a request to DEED as an amendment to its local plan, for a portion (up to ten percent) of its adult and dislocated worker allocation to be designated as an incumbent worker fund used consistent with an incumbent worker activity as described in WIA Section 134 (a)(3)(A)(iv)(I): "...implementation of innovative incumbent worker training programs, which may include the establishment and implementation of an employer loan program to assist in skills upgrading."

The amendment will specify a dollar amount or a certain percentage of Adult and Dislocated Worker funds to be designated as an incumbent worker fund. The submittal will describe the projects, services, or activities that will be delivered with the support of the fund, along with a budget for each. Additionally, the amendment will state that the LWIB:

- Ensures that all services required by WIA will be provided
- Acknowledges that all performance targets and expenditure benchmarks will be met

The State will evaluate the amendment in conjunction with labor market information (LMI), current local performance, and expenditure levels; notify the LWIB of approval; and initiate contract amendments to reflect the additional performance expectations.

This waiver will allow employers to minimize their high-cost of turnover and maintain the corporate workforce. It will also minimize the negative impact on the State's unemployment insurance (UI) trust fund. The workers will benefit by retaining their jobs and keeping payroll dollars in the local economy.

Dislocated Worker funds to meet local factors in regional economics.

Summary

DEED is requesting a waiver of the restrictions on the transferability of WIA Title I-B formula Adult and Dislocated Worker funds. The requested waiver will allow LWIBs, at their discretion and with the approval of the State, to have 100 percent transferability between the Adult and Dislocated Worker funding streams. This represents a requested waiver of WIA Section 133(b)(4)(A) and (B) and WIA regulations, 20 CFR 667.140(a). DEED strongly feels that the approval and use of this waiver will help WSAs meet their individual needs for specific types of employment and training services. It should be noted that a number of states (e.g., Alabama, Arizona, and Texas) have already received waivers allowing the complete transferability of WIA Title I-B formula Adult and Dislocated Worker funds. This waiver request adheres to the required format identified in WIA Section 189(i)(4)(B) and WIA regulations (20 CFR 661.420(c)).

Statutory Requirements to be Waived

DEED is requesting a waiver of WIA Section 133(b)(4)(A) and (B) and WIA regulations, 20 CFR 667.140(a). The requested waiver is designed to allow a WSA the opportunity to go beyond the 20 percent limitation of adult/dislocated worker funds transfer to devote what it feels is the proper combination of funds to meet locally determined employment and training needs. Therefore, DEED is requesting 100 percent transferability between the WIA Title I-B Adult program and the WIA Title I-B Dislocated Worker program. This request is in line with the U. S. Department of Labor (DOL) vision of a block grant to be given to states, allowing them to determine the appropriate mix between "universal adult" employment and training needs and "dislocated worker employment and training needs." By this waiver, DEED is passing this determination, to a large extent, to Minnesota's local areas. In accordance with the present allocation method, as given in WIA Section 133, DEED will continue to separately provide adult and dislocated worker allocations to its local areas. The WSAs will then have an opportunity to request a transfer of funds between the two allocations. The State will have the final authority on approving such a request.

State or Local Statutory Barriers

There are no existing State or local statutory or regulatory barriers to the implementation of this waiver request.

Goals of the Waiver and Expected Programmatic Outcomes

This waiver will allow the local WSA to use its available WIA resources to meet its specific adult/dislocated worker employment and training needs. In making the request, the WSA will need to meet a State requirement that it analyze the type and program eligibility of individuals who might need WIA Title I-B services. Additionally, the WSA will need to examine the various specific types of services that each funding source could provide and how that will impact on the population that will be served. The result of these analyses will need to accompany any request for transfer. The State will approve transfers where the request matches the need. The goals of the waiver are:

- Enhancement of the ability of the LWIBs to respond to workforce and economic conditions within their local areas
- Additional local flexibility in the design of adult and dislocated worker service plans
- Improvement of performance outcomes

- Improvement of the ability of the LWIBs to design programs and provide targeted assistance in response to customer needs
- Enhancement of the LWIBs' ability to respond to employer needs for workers trained in employer-specific skills

In terms of expected programmatic outcomes, the State feels that local plans and activities will be more in line with actual needs of the WSAs. This waiver allows WorkForce Centers to better accommodate the labor market demands of businesses as well as individuals. If the transfer is approved, the local WSA plan will be modified with the request and accompanying documentation. Additionally, the modification to be submitted by the WSA will state:

- An assurance that all services required by WIA will be provided
- An acknowledgment that performance targets and expenditure benchmarks, whether the original levels or modified ones, will be met

Individuals Impacted by the Waiver

- LWIB members will have the flexibility to design programs based on local needs and priorities
- One-Stop partners will be able to better align their service offerings with those of the local WIA programs
- Employers will be better served through participants acquiring skills specific to each employer's needs
- WIA program participants will receive services appropriate to the participant group(s) for which they are eligible
- Overall WIA participants will benefit from an increased and better utilization of funds, resulting in more effective and efficient employment and training services

Process to Monitor Waiver Progress

DEED's monitoring unit will monitor the progress of this waiver by ascertaining the degree to which the local plan amendment has been implemented in the local area. This monitoring will occur both onsite and at desk-review levels. MIS information will be used to determine the level of enrollment in the program, and budgetary information will be used to determine the expenditure levels; this information will be compared to the submitted plan amendment. Additionally, performance information will be analyzed to ensure that all standards are being met. There will be a review of DEED LMI (i.e., UI claim data) to ensure that the transferability is meeting the needs of potential participants. Corrective action will be implemented, as appropriate, including the possible removal of approval for the local plan amendment.

Opportunity for Comment

This waiver request was discussed and approved at the April 28, 2005, meeting of staff representatives of the LWIBs. The request is also posted here, as part of *Minnesota's Unified Plan*, for Statewide public comment.

REQUEST 4: Allow LWIBs to use individual training accounts (ITAs) for certain older (age 20-21) out-of school youth eligible for services under the WIA Youth Formula Grant. DEED requests permission from DOL to allow out-of-school youth to take advantage of ITAs without co-enrolling in the WIA Adult program. From July 1, 2000 to date, 2,476 ITAs were issued for adult participants and 2,981 ITAs were issued for dislocated workers.

Specific Request

Permit ITAs to be used for older youth and out-of-school youth.

Specific Statutory/Regulatory Requirement to be Waived

WIA Final Rule 664.510

Objective

The waiver is designed to enhance customer choice, allow these two populations (older youth and out-of-school youth) to benefit from services provided by Minnesota's certified training providers, and expand services without requiring local program operators to register participants in the adult program and track resources separately for each funding stream.

Principles

Granting this waiver request will increase efficiency and choices for customers who can potentially benefit from the expanded services offered. Without a waiver, ITAs are not permitted for youth participants.

Anticipated Benefits

- Program operators will be able to provide additional services to out-of-school youth who can benefit from them without having to go through the duplicative burden of registering for the adult program
- Granting of this waiver will alleviate the need to track expenditures separately for each funding stream
- The allowable service(s) will remain consistent with established policies for adults; requiring additional registration adds no value to the program or the customer

Monitoring/Evaluation of Impact of Proposed Waiver

Minnesota will monitor implementation and impact of the waiver through a combination of reporting from the local level and State oversight and evaluation. Through meetings of the LWIB directors and local youth practitioners, DEED will seek feedback on use, problems, and successes associated with the implementation of this waiver request. These discussions will allow sharing of best practices in taking the greatest advantage of opportunities offered by the waiver. DEED will also include monitoring of use of the waiver in its routine desk reviews and onsite monitoring.

REQUEST 5: Allow a one-year continuation of the program year (PY) 2004 WIA Program Certification List with the addition of programs that meet State WIA program certification requirements.

Summary

The approval of the requested waiver will allow Minnesota to better incorporate its new MIS (Workforce One) into the overall employment and training data system as well as allowing the State to better consider how the proposed certification requirements under a reauthorized WIA will affect its operations. The proposed waiver will allow Minnesota to continue for one-year the certification of those programs that were certified for PY04 as well as giving other programs the opportunity to become

certified.

In PY04, a formal certification process, consistent with WIA Section 122, was carried out with many programs being "WIA certified." A manual was issued that illustrated the process. A number of program operators expressed some degree of dissatisfaction with the amount of data that the State was requesting under the process and indicated that they will not participate again in the annual certification process if the present procedures remained in place. Therefore, Minnesota is requesting the continuation of the present list of certified programs with the addition of new programs while it considers the possible effect of a reauthorized WIA on the process certification. It should be noted that none of the present certified programs are felt to have fallen below State certification standards. Other states have requested waivers allowing them to use initial certification lists when using WIA training funds. Minnesota has already gone beyond the initial stage and is requesting a waiver to continue to use its list, developed under a subsequent certification process, for an additional year. This waiver request adheres to the required format identified in WIA Section 189(i)(4)(B) and WIA regulations (20 CFR 661.420(c)).

Statutory Requirements to be Waived

WIA Section 122 and WIA regulations 20 CFR 663.540 require an annual review of the State-issued eligible provider list. This review consists of a yearly update to the data previously submitted by program operators pursuant to law, regulations, and State policy. In Minnesota, State policy is reflected in the Certification Manual (see www.deed.state.mn.us/wia/WIAcertification.htm). This list is then disseminated among all of the WorkForce Centers throughout the State using the ISEEK system (www.iseek.org). Along with this list is a larger compendium of programs (both certified and uncertified programs) that allows any individual (WIA supported or not) to look at results from training providers throughout the State. This customer report is also reported through the ISEEK system.

In pursuing the PY04 annual review, DEED and its WSAs encountered potential program provider resistance in supplying requested data. The new interpretation of the Family Educational Rights and Privacy Act (FERPA) further aggravated the data problem. Minnesota needs time to consider the providers' comments and determine how the process can be made more efficient while still providing needed information to customers. Additionally, Minnesota needs time to consider the effects of proposed changes in the certification process as reflected in the reauthorized WIA legislations.

State or Local Statutory Barriers

There are no existing State or local statutory or regulatory barriers to the implementation of this waiver request.

Goals of the Waiver and Expected Programmatic Outcomes

The approval of this waiver will ultimately result in a better process for certifying programs under WIA. Minnesota believes in the purpose of certification, to provide the WIA customer a choice of quality programs that meet a basic set of stated goals and objectives. However, certification requires the cooperation of several key stakeholders:

- Potential training providers
- LWIBs who are ultimately responsible for certifying WIA programs
- Minnesota's ISEEK operators who maintain the eligible program list as well as the larger Consumer Report
- Minnesota's Higher Education Services Office which, under FERPA requirements, provides

summary program data on non-public training institutions; this data is supplied to DEED for dissemination to program operators seeking certification

- DEED, which is responsible for carrying out the Governor's responsibility for disseminating the State-issued eligible program list
- Employers that hire graduates of these certified programs
- Minnesota State Colleges and University (MnSCU) system, which offers the employment and training system to many training programs

The State intends to bring representatives of these stakeholders together during PY05 to discuss ways to increase the effectiveness and efficiency of the construction and use of the WIA program certification list. This waiver will give Minnesota the opportunity to rethink and reconstruct its certification process and will also allow a consideration of how a reauthorized WIA will affect the process. The goal that will be achieved at the end of the one-year period called for by the waiver will be an improved process that takes into account:

- Purpose of certification
- Data needed for certification
- Problems associated with the certification process
- Provisions of proposed legislation

This process will be detailed in a revised manual that will be posted on DEED's website.

Individuals Impacted by the Waiver

- Present training providers may postpone what they consider to be onerous data submittals and be allowed to offer views on what are the most important sets of data that potential students need to consider
- LWIB members may look at the certification process and offer ways of improving it
- ISEEK system developers may assess ways that data can be presented in more effective ways
- Minnesota's Higher Education Services Office staff may offer views as to what data is needed for a proper certification process and ways that data can be handled more effectively
- DEED staff may have the time to consider more effective certification processes
- Employers may present views on what the most important pieces of training program information that need to be presented
- MnSCU staff may provide views about certification

Process to Monitor Waiver Progress

DEED's Adult and Dislocated Worker Programs Unit will monitor the progress of this waiver by ascertaining how well views on certification are being solicited, catalogued, and presented; monitor the number of meetings that are held and the progress made in them; and ensure that a report is issued at the conclusion of the waiver period that provides suggestions about how certification can be improved. This report will contain input from the representatives of the stakeholders indicated above.

Opportunity for Comment

This waiver request was discussed and approved at the April 28, 2005, meeting of staff representatives of the LWIBs. The request is also posted here, as part of *Minnesota's Unified Plan*, for Statewide public comment.

REQUEST 6: Allow the exclusion of individuals engaged in entrepreneurial training from Adult and Dislocated Worker programs performance standards calculations.

Summary

DEED is requesting a waiver to allow the exclusion of these individuals' performance standards for wage change calculations. The requested waiver will encourage LWIBs to spend Adult and Dislocated Worker program resources to train individuals to establish and operate their own businesses. DEED will further assist these individuals by providing advice and appropriate support through its Business and Community Development (BCD) Division, helping to ensure the viability of the individual enterprise.

This effort at entrepreneurship is in keeping with DOL's emphasis on helping individuals start their own businesses as a way of promoting economic and social self-sufficiency. The Project GATE (Growing America Through Entrepreneurship) program is clear evidence of the national importance given to helping individuals achieve the American dream of owning their own businesses. This waiver meets this emphasis by encouraging WIA resources be spent on the effort. At present, LWIBs are reluctant to spend resources on entrepreneurship because of the adverse effect on performance standards. Specifically:

- The wages of individuals who successfully complete the training and start their own businesses are not shown on wage detail files, and supplemental data is inadmissible for the performance standard of wage change

Because of the wage factor, LWIBs do not spend dollars on this viable way of ensuring self-sufficiency. This waiver request adheres to the required format identified in WIA Section 189(i)(4)(B) and WIA regulations (20 CFR 661.420(c)).

Statutory Requirements to be Waived

WIA Section 136 and subsequent Training and Employment Guidance Letters (TEGL) (e.g., 28-04) describe the performance accountability system to which states and local workforce investment areas are subject. These references outline the various performance measures, methodology of computing these measures, and the individuals to whom performance measures apply. An examination of these issuances indicates that local areas utilizing WIA resources to train individuals in developing and operating their own businesses are penalized when computing the performance standards that apply to the program's measures. These areas are not allowed to use supplemental data in computing wage gains, an important consideration since entrepreneurs' earnings are generally not included in wage detail files.

State or Local Statutory Barriers

There are no existing State or local statutory or regulatory barriers to the implementation of this waiver request.

Goals of the Waiver and Expected Programmatic Outcomes

This waiver will increase the number of individuals who are being trained with WIA Adult and Dislocated Worker program resources in entrepreneurship. At present, there are 20 Adult and Dislocated Worker program individuals who have been trained. A number of WSAs have indicated a desire to devote more resources to the effort but have expressed reservations because of the possible detrimental effects on local performance standards. The exemption of such individuals from the wage-change

performance standard calculations will remove this barrier. A specific increase is not being proposed at this time, given a lack of experience with such a waiver. This waiver will increase local activity flexibility to the LWIBs. These principles align with the goals of WIA including:

- Empowering individuals to obtain needed services and information to enhance their employment and economic and social self-sufficiency opportunities
- Providing increased State and local flexibility to implement innovative and comprehensive workforce investment systems

Additionally, this waiver will be in keeping with a national emphasis on providing business opportunities to those individuals who might not have any such chance. Through its BCD Division, DEED will provide continuing financial and counseling assistance to these nascent enterprises hoping to ensure continued success. These new businesses could then, in turn, be used to provide employment for other appropriate WIA participants.

In approving requests for entrepreneurship training, an LWIB will set the parameters of information and resources a participant will have to complete to be approved for entrepreneurship training and assistance. Such information as target market, market for product or service, analysis of competition, etc., will be reviewed by the program operator. Participants will be offered assistance through DEED's LMI Office, BCD Division, and local Small Business Development Centers to assist them with their business plans. Based on good labor market research, a viable business plan, and an assessment of a trainee's motivation and ability to develop the business, the individual will be approved for entrepreneurship training and/or assistance. This waiver will give an additional tool to LWIBs in providing an economic stimulus to the community by providing an opportunity for business start-ups. Additionally, local and State economies will benefit with tax revenues from the additional business in an expanding industry.

Individuals Impacted by the Waiver

- LWIBs will be viewed as economic developers in providing the information and resources for business start-ups
- Potential entrepreneurs who are now WIA participants will be afforded the opportunity to obtain appropriate information and training to be successful in running their own businesses
- New business may potentially create additional new jobs for other WIA participants
- Local economies will benefit from the increased tax revenue coming from new businesses
- WorkForce Centers will forge new and beneficial relationships with State and local economic development agencies

The flexibility afforded to LWIBs by this waiver will encourage them to increase their services and become more responsive and innovative in meeting existing and new customer needs.

Process to Monitor Waiver Progress

DEED's monitoring unit will monitor the progress of this waiver by ascertaining the degree to which increased entrepreneurship training has been implemented in the local area. This monitoring will occur both onsite and at desk-review levels. Files will be reviewed to ensure appropriate information was collected to determine the likelihood of business success. MIS information will be used to determine the level of enrollment in the activity in the WIA Title I Adult and Dislocated Worker programs, and budgetary information will be used to determine the expenditure levels; this information will be compared to the submitted plan. Additionally, contact information will be obtained from DEED's BCD

Division to determine the degree to which assistance has been provided to new businesses developing as a result of the entrepreneurship training. Corrective action will be implemented as appropriate, including the possible removal of the waiver at the local level.

Opportunity for Comment

This waiver request was discussed and approved at the April 28, 2005, meeting of staff representatives of the LWIBs. The request is also posted here, as part of *Minnesota's Unified Plan*, for Statewide public comment.

REQUEST 7: Allow a one-year continuation of the DOL previously approved State methodology to measure local area customer satisfaction.

Summary

On May 22, 2002, Minnesota received a letter from the DOL Chicago Regional Office approving the State-proposed customer satisfaction assessment method. Minnesota is asking that this approval be extended through the end of PY05. The approval of the requested waiver will allow Minnesota to better provide a comprehensive and useful picture of customer satisfaction for all the partners in the State's One-Stop system. This methodology is based on the State's approach to the delivery of employment and training services through unified planning and service delivery among the WorkForce Center partners. This waiver request adheres to the required format identified in WIA Section 189(i)(4)(B) and WIA regulations (20 CFR 661.420(c)).

Statutory Requirements to be Waived

WIA Section 136 and WIA regulations 20 CFR 666.100, 20 CFR 666.300, and 20 CFR 666.310 describe the performance standards to which WSAs are subject. Among the standards is "a single customer satisfaction measure for employers and a single customer satisfaction indicator for participants must be used for the WIA Title I-B programs for adult, dislocated workers, and youth" (20 CFR 666.100). Additionally, the law indicates that "the customer satisfaction indicator of performance shall consist of customer satisfaction of employers and participants with services received from the workforce investment activities authorized under this subtitle. Customer satisfaction *may* (emphasis added) be measured through surveys conducted after the conclusion of participation in the workforce investment activities" (WIA Section 136 (B)).

Minnesota has met this WIA Title I-B requirement for job seeker customer satisfaction at the State level in accordance with the applicable sections of law, regulations, and TEGL 6-00. However, it has been measuring customer satisfaction at the local level with a more comprehensive view in mind, which is a unified approach to measure customer satisfaction consistent with WIA's larger goal of unified planning and service delivery among the WorkForce Center partners.

State or Local Statutory Barriers

There are no existing State or local statutory or regulatory barriers to the implementation of this waiver request.

Goals of the Waiver and Expected Programmatic Outcomes

Minnesota administers a customer satisfaction survey to participants of the major programs offered

through Minnesota's WorkForce Centers. The survey consists of the first three questions of the State "WIA survey" on overall satisfaction, comparison to expectations, and comparison to an ideal. Additionally, respondents are asked 10-12 questions ascertaining satisfaction with specific aspects of the service they received. Results are received at the local service area level, as well as for each program Statewide, and for the entire system. The groups who are surveyed include:

PROGRAM	CRITERIA TO BE ELIGIBLE FOR SURVEY	APPROXIMATE NUMBER SURVEYED EACH YEAR (SYSTEM-WIDE)
WIA Title I-B Adults	In any status beyond Core II but not yet exited from the program	440
WIA Title I-B Youth and Minnesota Youth Program	Minimum of 45 days after enrollment and in at least one activity open beyond assessment	630
WIA Title I-B Dislocated Worker and Minnesota-funded Dislocated Worker	In any status beyond Core II but not yet exited the program	580
Wagner-Peyser including Veterans	Registered job seekers that have had one or more selected services	1340 (1/2 Job Service only; 1/2 Veterans)
Vocational Rehabilitation (VR)	Customers in statuses 12-26, 28. 60-day limit on statuses 24, 26, and 28	630
State Services for the Blind (SSB): Workforce Development	VR customers in any status beyond 12, but excluding 30. 60-day limit on closed cases	240
Minnesota Family Investment Program (MFIP, Minnesota's TANF Program)	Minimum of 120 days after enrollment but not yet terminated from the program	580
Food Stamp Employment and Training (FSET) Program	Minimum of 45 days after enrollment but not yet terminated from the program	600

The approval of this waiver will result in a better process for ascertaining customer satisfaction with the universe of services within the State's comprehensive employment and training system including those provided under WIA. Minnesota has felt that WIA programs needed to be evaluated within a system context. The methodology that is being proposed by the State is in line with this approach.

TEGL 6-00 allows for the participant universe to include individuals in programs funded under other funding sources. Thus, Minnesota's universe of respondents is in line with this TEGL. This waiver modifies this TEGL somewhat in how the submittal specifically defines the participant universe. TEGL 6-00 indicates that the participant universe for the customer satisfaction survey consists of "all individuals from all funding streams in an exit cohort." This is a relatively easy requirement to meet under the WIA Title I-B and WIA Title III programs. The State proposes to combine the Exiters Survey with overall System Survey by substituting the exited youth, adult, and dislocated worker respondents for the "in-progress" youth, adult, and dislocated worker respondents. Respondents from the Title III program (including Veterans) will be selected according to present DOL "exiter" definition.

However, "exit" status is more difficult to define for the other WorkForce Center partner programs. Participants in these programs may receive services for up to 60-months (MFIP) or for 84-months or more under the VR programs. Further, individuals may move in and out of the program throughout their lives. FSET participants have no clear exit date or status. Therefore, this waiver calls for Minnesota to select survey respondents for ALL groups based on criteria that define a substantial degree of time in the program and/or service received. Minnesota feels that this procedure allows for timely and useful feedback enabling service deliverers to make appropriate service changes.

Therefore, Minnesota's proposal allows for a more comprehensive approach to customer satisfaction in line with WIA's approach to look at employment and training programs as a system. Results will allow localities to operate WorkForce Centers as effectively and efficiently as possible.

Individuals Impacted by the Waiver

- Local operators of employment and training programs in the WorkForce Centers will obtain timely information on customer satisfaction that will allow them to make appropriate changes in service delivery
- Customers of WorkForce Centers, whose input will have a timely effect on what and how services are delivered
- DEED program managers/specialists/monitors will know that local service delivery will be affected by timely customer satisfaction input

Process to Monitor Waiver Progress

DEED's Policy, Planning and Measures Office will monitor the progress of this waiver by ascertaining how well the contractor who will be conducting the survey is obtaining and contacting the appropriate individuals; and will distribute the survey results on a quarterly basis to local WorkForce Centers for review and comment, validity, and reliability.

Opportunity for Comment

This waiver request was discussed and approved at the April 28, 2005, meeting of staff representatives of the LWIBs. The request is also posted here, as part of *Minnesota's Unified Plan*, for Statewide public comment.

REQUEST 8: Waiver of program Statewideness related to transition services to youth served by Independent School District Number 2170 in Staples, Minnesota.

The RS-VR program requests a waiver from the U.S. Department of Education's Rehabilitation Services Administration (RSA) with respect to delivery of services in the Staples, Minnesota, school district. VR serves students with disabilities in all of the State's public school districts and in most Minnesota private schools through RS-VR program field offices located Statewide. Delivery of RS-VR school-to-work transition services is described elsewhere in *Minnesota's Unified Plan*. The uniform provision of these services Statewide is required by WIA except when waived.

The Staples, Minnesota, school district and RS-VR have elected a service model for several years under which a full-time counselor provides RS-VR services exclusively to the district's eligible students. The school district employs the RS-VR counselor, sharing costs with RS-VR. Hiring and case supervision is a responsibility of the RS-VR local rehabilitation area manager. The contract under which this collaboration is carried out is negotiated and administered by the local rehabilitation area manager to

meet specific local needs. This written contract provides that all non-federal funds allocated by the agreement are made available to RS-VR, all RS-VR services provided under the agreement are subject to RS-VR approval, and all State plan requirements apply to all services approved under the contract.

REQUEST 9: Providing for State flexibility to decide whether VR services are required with respect to applicants deemed eligible for Social Security benefits under Title II or Title XVI of the Social Security Act (SSA).

Summary

A criterion of eligibility for VR services under the Rehabilitation Act is whether VR services are "required" in order for an applicant to achieve employment. However, in the case of Social Security benefit recipients, this element does not apply. A presumption of eligibility is imposed by the Act. Consequently, the VR program is compelled to serve Social Security benefit recipients who may not require VR services to achieve their chosen employment goal. Flexibility regarding presumption of eligibility will better permit the Minnesota program to facilitate the most appropriate VR or non-VR outcome for Social Security benefit recipients, based on:

- Whether a goal of optimal self-sufficiency is sought, or
- Whether the customer chooses an alternate goal for which community resources other than VR are most appropriate to effect the chosen objective

Statutory Requirement at Issue

DEED-RS asks the RSA commissioner to exercise administrative authority to waive or to otherwise grant Minnesota flexibility in the State's application of Section 102(a)(3) of the Rehabilitation Act, and the federal regulation at 34 CFR 361.42(A)(3). These provisions set forth presumption of eligibility for VR program applicants who receive payments under Titles II or XVI of the SSA, i.e., Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI).

State or Local Statutory Barriers

There are no State or local legal barriers relating to this request.

Goals of the Request and Expected Programmatic Outcomes

Not all individuals in receipt of Social Security payments who apply to the VR program want to pursue an employment goal in keeping with their strengths, resources, abilities, capabilities, and interests. Nor do they always elect to enter into a process of informed choice to examine goals likely to result in their optimal self-sufficiency. In some instances, individuals in receipt of SSDI or SSI elect an employment goal short of their capacity, with or without supports, to replace benefits with earned income. Regardless, the VR program is compelled in such instances to provide service.

Approval of the proposed flexibility will improve utilization of VR program resources by increasing the proportion of VR customers achieving employment outcomes that result in or will lead to economic self-sufficiency. It will also provide for study of the conditions under which persons in receipt of Social Security payments are best counseled to maximize self-sufficiency or, through informed choice, be referred to other appropriate community programs or services.

The goals of this request are consistent with the Rehabilitation Act's definition of employment at Section

7(11)(A-C); the stated purposes of the Act at Section 12(b)(1); the measurement of the effectiveness of the VR program by the standard and indicator at Section 106 comparing customer self-support when entering and exiting the program; and provisions of the Act intended to conserve VR resources when alternate resources are available, such as Section 101(a)(8) relating to use of comparable benefits. This request is further consistent with the Statewide availability in Minnesota of diverse non-VR employment resources such as WorkForce Center services established under WIA, community rehabilitation programs, Centers for Independent Living, and other Statewide public and private programs and resources.

Individuals Impacted by the Waiver

This request, if approved, will affect some but not all persons in receipt of SSA benefits under Title II and Title XVI who apply for VR services in Minnesota. It is estimated that approximately 75 to 100 persons will be affected annually, as persons in receipt of benefits under Titles II and XVI of the SSA who upon application, or after application, in a context of informed choice seek an employment goal characterized by the following:

- The employment goal is less than full-time employment, or
- Less than appropriate part-time employment, and
- Will not result in economic self-sufficiency, and
- Could be facilitated by other community programs or resources

Process to Monitor Waiver Progress

This process, based on criteria 1-4 in paragraph IV, will be overseen by the VR program's administrative office to ensure evenhandedness in its administration and assessment of its effectiveness in achieving its objectives. Applicants who, after a process of informed choice including consideration of potential services and supports, elect an employment goal that is not likely to lead to self-sufficiency or to their optimum employment based upon individual strengths, resources, abilities, capabilities, and interests, could be found ineligible for VR and referred to another appropriate community program or resource to achieve their employment objective. These decisions will be reviewed by the rehabilitation area manager and the director for VR/WorkForce Center System integration to ensure their appropriateness and to track the effectiveness of referrals. Progress will be reported quarterly to the RS-VR management team.

Opportunity for Comment

DEED-RS managers discussed this request with the State Rehabilitation Council (SRC) on April 27, 2005. The request is also posted here, as part of *Minnesota's Unified Plan*, for Statewide public comment.

REQUEST 10: Providing for State flexibility in determining the financial participation of customers in receipt of Social Security benefits under Title II or Title XVI of the SSA.

Summary

Minnesota administrative rules for VR services provide for reasonable customer financial participation in the cost of specified services based on financial means. Customers who are determined capable of contributing financially to the costs of their employment plans under the rule do so. However, the Rehabilitation Act exempts persons deemed eligible for SSDI and SSI from such financial participation. Flexibility regarding this provision is sought because it is sometimes the case that individuals in receipt

of SSDI under Title II have unearned income that can reasonably and without hardship be applied to the costs of an employment plan, as the Minnesota rule provides. No flexibility is requested for individuals in receipt of SSI, itself a means-based program.

Statutory Requirement at Issue

DEED-RS asks the RSA commissioner to exercise administrative authority to waive or to otherwise grant Minnesota flexibility in the State's application of Section 101(a)(8) of the Rehabilitation Act and the federal regulation at 34 CFR 361.54(a)(3)(i)(G)(ii). These provisions permit states to adopt a method for determining reasonable financial participation by customers in the costs of services based on financial need, but prohibit financial need as a consideration in the case of persons determined eligible for SSDI. Because persons in receipt of SSDI sometimes have unearned income at a level that will otherwise initiate their financial participation under Minnesota Administrative Rules, Chapter 3300, Part 5040, it is requested that exemption under the Rehabilitation Act be waived with respect to SSDI recipients, permitting the provisions of Minnesota's administrative rule to apply. No such flexibility is requested in the case of persons deemed eligible for SSI. It should be noted that the Minnesota rule allows for exceptions, and variances are based on need and circumstances.

State or Local Statutory Barriers

There are no State or local statutory barriers related to this request.

Goals of the Waiver and Expected Programmatic Outcomes

The goals of this request include improved utilization of VR resources to meet the needs of customers and equal treatment of persons seeking VR services with respect to their financial means and capacity for financial participation. Equity in the treatment of customers is provided under Minnesota Administrative Rule 3300, Part 5400. Should this rule be repealed, any approved waiver or flexibility granted by the U.S. Department of Education will be considered withdrawn.

Individuals Impacted by the Waiver

Persons affected by approval of this request are persons in receipt of SSDI who are eligible for VR services and who meet criteria for customer financial participation under Minnesota Administrative Rules, Chapter 3300, Part 5040.

Process to Monitor Waiver Progress

The administration of this request, tracking of fiscal benefit, and allowance for variance under the Minnesota rule will be followed by the RS administrative office and reported quarterly to the program management team.

Opportunity for Comment

DEED-RS managers discussed this request with the SRC on April 27, 2005. The request is also posted here, as part of *Minnesota's Unified Plan*, for Statewide public comment.

REQUEST 11: Adapting to regional needs in administration of the State's order of selection.

Summary

Minnesota's order of selection for VR services provides for a waiting list for each of the State's priority of service categories. In accord with applicable law, the order of selection is "implemented on a Statewide basis" and "individuals with the most significant disabilities are selected first for the provision of VR services..." When waiting lists are emptied, it is found that non-metropolitan areas of the State experience underutilization of staff resources relative to urban, metropolitan areas. This disparity is, in part, a service disadvantage to customers living in the State's rural areas. Minnesota seeks authority to remedy the disadvantage of rural Minnesotans with respect to service when priority categories are closed and waiting lists are used.

Statutory Requirement at Issue

DEED-RS asks the RSA commissioner to exercise administrative authority to waive or to otherwise grant Minnesota flexibility in the State's application of Section 101(a)(5) of the Rehabilitation Act and the federal regulation at 34 CFR 361.36(a)(3)(iv). To the extent that these provisions require a single waiting list Statewide for each priority category, VR resources in outstate Minnesota are underutilized and rural Minnesotans are disadvantaged when priority categories are opened and customers served according to the date of their applications. Flexibility to create regional waiting lists is requested.

State or Local Statutory Barriers

There are no State or local legal barriers relating to this request.

Goals of the Waiver and Expected Programmatic Outcomes

The aim of this request is efficient utilization of VR program resources Statewide, to provide equitable service between urban and rural areas of the State, and a Statewide reduction in the length of time Minnesota customers must wait for service under the State's order of selection.

Individuals Impacted by the Waiver

This request will benefit all VR-eligible individuals waiting for service who reside in outstate Minnesota, who will be served but for the larger number of persons in the same or higher priority category on the waiting list who applied for service on an earlier date who reside in the State's seven-county metropolitan area.

Process to Monitor Waiver Progress

This request, if approved, will be monitored by the RS administrative office to track the cases that are opened under its authority, the number of persons benefiting, and to ensure that only cases meeting the established criteria are opened. Quarterly reports will be reviewed by the RS-VR management team.

Opportunity for Comment

DEED-RS managers discussed this request with the SRC on April 27, 2005. The request is also posted here, as part of *Minnesota's Unified Plan*, for Statewide public comment.

REQUEST 12: Allow the State to determine local customer satisfaction scores using a system-wide customer satisfaction survey.

Summary

DEED is requesting a waiver to allow the State to determine local customer satisfaction scores using a system-wide customer satisfaction survey. The waiver is based on a customer satisfaction survey previously approved by DOL on May 22, 2002. This submittal is presenting a slight modification to the previously approved State methodology in assessing local area customer satisfaction. As already indicated in the May 22, 2002 request, the State feels that its survey allows Minnesota and its service deliverers to obtain a comprehensive picture of customer satisfaction for all the partners in the State's One-Stop system. The State is advocating this approach to customer satisfaction because it feels that employment and training services need to be developed through unified planning and service delivery among the WorkForce Center partners. This waiver request adheres to the required format identified in WIA Section 189(i)(4)(B) and WIA regulations (20 CFR 661.420(c)).

Statutory Requirements to be Waived

WIA Section 136 and WIA regulations 20 CFR 666.100, 20 CFR 666.300, and 20 CFR 666.310 describe the performance standards to which local WSAs are subject. Among the standards is "a single customer satisfaction measure for employers and a single customer satisfaction indicator for participants must be used for the WIA Title I-B programs for adult, dislocated workers, and youth" (20 CFR 666.100). Additionally, the law indicates that "the customer satisfaction indicator of performance shall consist of customer satisfaction of employers and participants with services received from the workforce investment activities authorized under this subtitle. Customer satisfaction *may* (emphasis added) be measured through surveys conducted after the conclusion of participation in the workforce investment activities" (WIA Section 136 (B)).

Under this waiver, Minnesota will continue to meet this WIA Title I-B requirement for job seeker customer satisfaction at the State level in accordance with the applicable sections of the law, regulations, and TEGL 6-00. The survey will contain responses from a sample of WIA-funded Adult, Youth, and Dislocated Worker customers. These respondents will continue to be asked the three mandated DOL questions on overall satisfaction used to compute the American Customer Satisfaction Index (ACSI), reported to DOL; and the Minnesota Customer Satisfaction Survey (MnSCI), a convenient tool used to compare increases or decreases in customer satisfaction over time, similar in nature to the ACSI but not having any weightings. Additionally, these individuals will be asked about staff services and two questions will be open-ended and call for more detailed feedback.

However, to compute the local customer satisfaction scores, Minnesota is intending to use responses from a sample of exiters from a number of programs: WIA Adult, WIA Youth, WIA Dislocated Workers, State-funded Youth, State-funded Dislocated Worker, SSB (both "in progress" and exiters), VR (both "in progress" and exiters), and Wagner-Peyser (recipients of service within the past 45 days). Minnesota intends that this customer satisfaction score will serve as the local customer satisfaction score as required by law. The computation of this customer satisfaction score will be consistent with WIA's larger goal of unified planning and service delivery among the WorkForce Center partners. In addition, Minnesota will compute separate MFIP customer satisfaction scores for each local area.

State or Local Statutory Barriers

There are no existing State or local statutory or regulatory barriers to the implementation of this waiver request.

Goals of the Waiver and Expected Programmatic Outcomes

Minnesota continues to administer a customer satisfaction survey to participants of the major programs

offered through Minnesota's WorkForce Centers. At present, there are two surveys. The first consists of the first three questions of the State "WIA survey" on overall satisfaction, comparison to expectations, and comparison to an ideal and is administered to exiters of the WIA programs serving adults, youth, and dislocated workers. This survey meets all of the requirements of the law and regulations regarding ascertaining a State-level customer satisfaction score.

The second survey is administered to "in progress" participants of the major programs offered through Minnesota's WorkForce Centers. Respondents are asked 10-12 questions ascertaining satisfaction with specific aspects of the service they received. Results are received at the local service area level, as well as for each program Statewide, and for the entire system.

In a letter received from DOL on May 22, 2002, approving the second survey methodology, the Chicago regional administrator indicated: "After review of your letter, we have concluded that your desire to measure customer satisfaction at the local level by using sample results drawn from a universe of people being served in other partners' programs in the One-stop, and not exclusively Title I-B participants, serves the purpose of aligning the actual survey practice with the intent of promoting a broad workforce system. We feel that it is within Minnesota's discretion to do what it proposes, and that it makes sense to do it this way, assuming that the state has worked this out with its local areas so that they understand how they are being evaluated on this performance measure."

With this waiver, Minnesota intends to modify its approach to measuring customer satisfaction while keeping the DOL-sanctioned unified planning and service delivery paradigm in mind. Minnesota intends to have only one survey, interviewing primarily customers who have just exited from a program. The groups who will be surveyed include:

- A sample of WIA-funded Adult program exiters, Dislocated Worker program exiters, Youth program exiters. (NOTE: The Statewide results from the survey for these individuals will be reported in accordance with DOL rules and regulations.)
- A sample of recent exiters from the State-funded Dislocated Worker program, Youth program, and MFIP
- Both "in-progress" and exited SSB and VR program participants
- Wagner-Peyser program exiters who received a designated service within the past 45 days

Participants will be asked the three mandated DOL questions for ACSI and MnSCI purposes, two questions about staff services, and two open-ended questions ascertaining program usefulness and suggestions for better programs.

The accuracy of survey results for the local areas (not including MFIP/TANF exiters scores) is estimated at five percent precision at the 92 percent confidence level. The results of the survey will continue to be posted quarterly at www.deed.state.mn.us/customersurvey/jobseekerMain.htm.

The approval of this waiver will result in a better process to ascertain customer satisfaction with the universe of services within the State's comprehensive employment and training system including those provided under WIA. Minnesota has continued to feel that WIA programs needed to be evaluated within a system context. The DOL May 2002, letter supports this approach. The methodology that is being proposed by the State will continue to allow it to evaluate effectively how well services as a whole are being delivered.

Individuals Impacted by the Waiver